

Admissibility of Confessions

OPTION #1

§ 46b-137. Admissibility of confession or other statement in juvenile proceedings

(a) Any admission, confession or statement, written or oral, made by a child under the age of sixteen to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless made by such child in the presence of his parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements and (3) that any statements he makes may be introduced into evidence against him.

(b) Any admission, confession or statement, written or oral, made by a child who has attained the age of sixteen years to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless such child has been advised (1) of the child's right to contact a parent and have a parent present during any interview, (2) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (3) of the child's right to refuse to make any statements and (4) that any statements he makes may be introduced into evidence against him.

(c) The admissibility of any admission, confession or statement, written or oral, made by a child who has attained the age of sixteen years to a police officer or Juvenile Court official shall be determined by considering the totality of the circumstances at the time of the making of such admission, confession or statement. When determining the admissibility of such admission, confession or statement, the court shall consider the child's age, experience, education, background, and intelligence, their capacity to understand the warnings given him or her, the nature of his or her Fifth Amendment rights, and the consequences of waiving those rights as well as the opportunity for the child to speak with a parent or other adult prior to or while making such admission, confession or statement. The circumstances surrounding the making of such admission, confession or statement, including time and location, and the reasonableness of or need to proceed without a parent present, along with any attempts to contact a parent or guardian, shall also be considered.

Statement of purpose: To clarify that the current law, requiring the presence of a parent and the advisement of rights before any admission, confession or statement made to a police officer or juvenile court official can be admissible in the juvenile court against the juvenile making it, applies only to those juveniles under the age of sixteen and that for juveniles age sixteen and older, the same "totality of the circumstances" test that applies to them and all other persons in the adult criminal court now will apply after the implementation date of PA 07-4 as long as the sixteen or seventeen year old was advised of his or her right to speak to a parent and to have a parent present.

OPTION #2

§ 46b-137. Admissibility of confession or other statement in juvenile proceedings

(a) Any admission, confession or statement, written or oral, made by a child under the age of sixteen or by a child who has attained the age of sixteen and who is in the custody of and being interrogated by ~~to~~ a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless made by such child in the presence of his parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements and (3) that any statements he makes may be introduced into evidence against him.

Statement of purpose: To clarify that the current law, requiring the presence of a parent and the advisement of rights before any admission, confession or statement made to a police officer or juvenile court official can be admissible in the juvenile court against the juvenile making it, applies only to those juveniles under the age of sixteen, as it does now, or to juveniles age sixteen and older if they are in the custody of and being interrogated by a police officer or juvenile court official after the implementation date of PA 07-4.

OPTION #3

§ 46b-137. Admissibility of confession or other statement in juvenile proceedings

(a) Any admission, confession or statement, written or oral, made by a child as a result of custodial interrogation by ~~to~~ a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless ~~made by~~ such child ~~in the presence of his parent or parents or guardian and after the parent or parents or guardian and child have~~ has been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements and (3) that any statements he makes may be introduced into evidence against him.

(b) The admissibility of any admission, confession or statement, written or oral, made by a child to a police officer or Juvenile Court official shall be determined by considering the totality of the circumstances at the time of the making of such admission, confession or statement. When determining the admissibility of such admission, confession or statement, the court shall consider the child's age, experience, education, background, and intelligence, their capacity to understand the warnings given him or her, the nature of his or her Fifth Amendment rights, and the consequences of waiving those rights as well as the opportunity for the child to speak with a parent or other adult prior to or while making such admission, confession or statement. The circumstances surrounding the making of such admission, confession or statement, including time and location, and the reasonableness of or need to proceed without a parent present, along with any attempts to contact a parent or guardian, shall also be considered.

Statement of purpose: To make Connecticut law regarding statements by juveniles consistent with law in the majority of states. It would apply the "totality of circumstances" test to determine the admissibility of any statement made by any person under the age of sixteen if made to a police officer or juvenile court official while subject to custodial interrogation.

OPTION #4

§ 46b-137. Admissibility of confession or other statement in juvenile proceedings

(a) Any admission, confession or statement, written or oral, made by a child or youth to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless made by such child in the presence of his parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements and (3) that any statements he makes may be introduced into evidence against him.

(b) Any confession, admission or statement, written or oral, made by the parent or parents or guardian of the child or youth after the filing of a petition alleging such child or youth to be neglected, uncared-for or dependent, shall be inadmissible in any proceeding held upon such petition against the person making such admission or statement unless such person shall have been advised of his right to retain counsel, and that if he is unable to afford counsel, counsel will be appointed to represent him, that he has a right to refuse to make any statement and that any statements he makes may be introduced in evidence against him.

Statement of purpose: To leave the statute as is. This will require a parent to be present for a statement to be admissible for any child or youth in juvenile court. Statements taken from children and youth who are later transferred will continue to be admissible in adult court without parental presence, subject to normal constitutional rules and protections.

State Department of Education Overview

General Observations

The State Board of Education's Five-year Comprehensive Plan for Education for 2006-2011 includes two pieces which impact on 16-17 year olds: high academic achievement of all students in reading, writing, mathematics and science and high school reform. The Board selected these priority areas to address the "unacceptable achievement gaps that continue to widen in reading and mathematics among students who differ in gender, race, ethnicity and socioeconomic status. The rigor of curriculums and instruction across all grade levels must be equal in urban, suburban and rural school."

All children and youth ages 5 to 21 who haven't graduated from high school or from a technical school with a regular high school diploma are entitled to an equal educational opportunity until they graduate or turn 21, whichever occurs first

All children and youth eligible for special education are entitled to remain in school until they graduate with a regular high school diploma or until the end of the school year in which they turn 21. The school year is defined as July 1 through June 30th. If a child turns 21 in July, they are entitled to another year of services from the public school district assuming the child is not eligible to graduate with a regular high school diploma.

All entitlements to education are based on the residence of the child which is attributed to the residence of the parent/guardian unless there is evidence to the contrary.

When a child is placed by a public agency in a school district different from where the parent/guardian resides, the entitlement to education can be compromised. The state established a scheme for dealing with state agency placements where a child/youth is placed out of their home in a town other than where their parents reside. If the child is receiving regular education instruction, the town where the child resides as a result of the placement is required to provide educational services to the child. If the child is eligible for special education, the town in which the child would otherwise reside, the town of parental residence, is responsible for planning the child's program, writing the IEP, ensuring the IEP is implemented and paying tuition to the town where the child resides as a result of the agency placement. If no town of parental residence can be identified (based on criteria established by DCF), the child has "no-nexus" and is educated by the town where they reside as a result of the placement.

The notification protocol for state agency placements is limited to placements made by DCF and offices of a government of a federally recognized Native American tribe. School districts do not receive notification from other public agencies when children are removed from their homes and placed in a town different from their town of residence. This makes planning and implementing educational programs difficult.

Option #5

§ 46b-137. Admissibility of confession or other statement in juvenile proceedings

(a) Any admission, confession or statement, written or oral, made by a child to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless made by such child in the presence of his parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements and (3) that any statements he makes may be introduced into evidence against him.

(b)(1)(New) Any admission, confession or statement, written or oral, made by a youth to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the youth making such admission, confession or statement unless made by such youth in the presence of his parent or parents or guardian and after the parent or parents or guardian and youth have been advised (A) of the youth's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the youth's behalf, (B) of the right to have a parent or guardian present during questioning (C) of the youth's right to refuse to make any statements and (D) that any statements he makes may be introduced into evidence against him. (2) Notwithstanding the provisions of subsection (1) of this section, an admission, confession or statement of a youth may be admissible in evidence if (A) reasonable efforts are made to contact a parent or guardian or to have the youth confer with the parent or guardian but no parent or guardian can be located; (B) the interrogation and the admission, confession or statement is videotaped in its entirety and (C) the court finds that, under the totality of the circumstances the youth made a knowing, voluntary and intelligent waiver of rights.

Statement of purpose: To permit a youth to waive their right to have a parent present when making a statement to a police officer or Juvenile Court official if the youth has been advised of his or her rights, including the right to have a parent present, and the police made a reasonable effort to contact a parent or guardian or have the youth confer with the parent or guardian, but they are unable to locate a parent or guardian, provided the interrogation and the admission, confession or statement is videotaped in its entirety and the court finds that the youth's waiver of his or her rights was knowing, voluntarily and intelligently made using the "totality of circumstances" test.

Option #6

§ 46b-137. Admissibility of confession or other statement in juvenile proceedings

(a) Any admission, confession or statement, written or oral, made by a child to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless made by such child in the presence of his parent or parents or guardian and after the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements and (3) that any statements he makes may be introduced into evidence against him.

(b)(1)(New) Any admission, confession or statement, written or oral, made by a youth to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the youth making such admission, confession or statement unless made by such youth in the presence of his parent or parents or guardian and after the parent or parents or guardian and youth have been advised (A) of the youth's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the youth's behalf, (B) of the right to have a parent or guardian present during questioning (C) of the youth's right to refuse to make any statements and (D) that any statements he makes may be introduced into evidence against him.

(2) Notwithstanding the provisions of subsection (1) of this section, an admission, confession or statement of a youth may be admissible in evidence if (A) reasonable efforts are made to contact a parent or guardian or to have the youth confer with the parent or guardian but no parent or guardian can be located and (B) the questions are limited to information necessary to secure the immediate public safety.

Statement of purpose: To permit a youth to waive their right to have a parent present when making a statement to a police officer or Juvenile Court official if the youth has been advised of his or her rights, including the right to have a parent present, and the police made a reasonable effort to contact a parent or guardian or have the youth confer with the parent or guardian, but they are unable to locate a parent or guardian and the questions asked are limited to information necessary to secure the immediate public safety. This option is based on an exception to the Miranda rule set out in N.Y. v. Quarles, 467 U.S. 649, 104 S.Ct. 2626, 81 L.Ed. 2d 550 (1984). Massachusetts adopted this rule for juveniles in Commonwealth v. Guthrie, 66 Mass. App. Ct. 414; 848 N.E.2d 787(2005); affirmed, 446 Mass. 1028, 869 N.E.2d 585 (2007)